

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

GABRIEL SCAFF-MARTINEZ,

Petitioner,

vs.

WARDEN CONNIE REESE,

Respondent.

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CIVIL ACTION NO. 09-CV-453-PWG-E

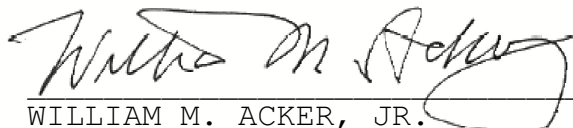
MEMORANDUM OF OPINION

The magistrate judge filed findings and recommendation on January 15, 2010 recommending that the petition for writ of habeas corpus be denied. The parties were allowed an opportunity in which to file objections. On February 1, 2010, the petitioner filed objections (Doc. #18). In his objections, the petitioner requested the court to defer its ruling on the issue of the correct calculation of gain time until the Supreme Case rules in *Barber v. Thomas*, ___U.S.___, 2009 WL 1983760 (Nov. 30, 2009).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation and the objections filed by the petitioner, the Court is of the opinion that the magistrate judge's findings are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. The Court notes that in *Brown v. McFadden*, 416 F.3d 1271 (11th Cir.2005), the Eleventh Circuit held that, although 18 U.S.C. § 3624(b)(1) is ambiguous, the BOP's interpretation that a federal prisoner should get good time credit of 54 days for each year he actually serves in prison is reasonable, and rejected the prisoner's challenge thereto. Accordingly, petitioner's

objections are due to be OVERRULED and the petition for writ of habeas corpus is due to be DENIED. A Final Judgment will be entered.

As to the foregoing it is SO ORDERED this the 9th day of February, 2010.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE